

### § 171.3

### 49 CFR Ch. I (10–1–04 Edition)

labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption, approval, or registration issued under this subchapter or subchapter A of this chapter.

(f) No person may transport a hazardous material in commerce unless the hazardous material is transported in accordance with applicable requirements of this subchapter or an exemption, approval, or registration issued under this subchapter or subchapter A of this chapter.

(g) No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of this subchapter governing its use in the transportation of a hazardous material in commerce unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable requirements of this subchapter. No person may represent, mark, certify, sell, or offer a packaging or container as meeting the requirements of an exemption, approval, or registration issued under this subchapter or subchapter A of this chapter unless the packaging or container is manufactured, fabricated, marked, maintained, reconditioned, repaired, and retested in accordance with the applicable requirements of the exemption, approval, or registration issued under this subchapter or subchapter A of this chapter. The requirements of this paragraph apply whether or not the packaging or container is used or to be used for the transportation of a hazardous material.

(h) The representations, markings, and certifications subject to the prohibitions of paragraph (g) of this section include—

(1) Specification identifications that include the letters “ICC”, “DOT”, “CTC”, “MC”, or “UN”;

(2) Exemption, approval, and registration numbers that include the letters “DOT”, “EX”, “M”, or “R”; and

(3) Test dates associated with specification, registration, approval, retest, or exemption markings indicating compliance with a test or retest requirement of the HMR, or an exemption, approval, or registration issued under the HMR or under subchapter A of this chapter.

(i) No person may certify that a hazardous material is offered for transportation in commerce in accordance with the requirements of this subchapter unless the hazardous material is properly classed, described, packaged, marked, labeled, and in condition for shipment as required or authorized by applicable requirements of this subchapter or an exemption, approval, or registration issued under this subchapter or subchapter A of this chapter. Each person who offers a package containing a hazardous material for transportation in commerce in accordance with the requirements of this subchapter or an exemption, approval, or

registration issued under this subchapter or subchapter A of this chapter, must assure that the package remains in condition for shipment until it is in the possession of the carrier.

(j) No person may, by marking or otherwise, represent that a container or package for transportation of a hazardous material is safe, certified, or in compliance with the requirements of this chapter unless it meets the requirements of all applicable regulations issued under Federal hazardous material transportation law.

(k) No person may, by marking or otherwise, represent that a hazardous material is present in a package, container, motor vehicle, rail car, aircraft, or vessel if the hazardous material is not present.

(l) No person may alter, remove, deface, destroy, or otherwise unlawfully tamper with any marking, label, placard, or description on a document required by Federal hazardous material transportation law or the regulations issued under Federal hazardous material transportation law. No person may alter, deface, destroy, or otherwise unlawfully tamper with a package, container, motor vehicle, rail car, aircraft, or vessel used for the transportation of hazardous materials.

(m) No person may falsify or alter an exemption, approval, registration, or other grant of authority issued under this subchapter or subchapter A of this chapter. No person may offer a hazardous material for transportation or transport a hazardous material in commerce under an exemption, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter if such grant of authority has been altered without the consent of the issuing authority. No person may represent, mark, certify, or sell a packaging or container under an exemption, approval, registration or other grant of authority issued under this subchapter or subchapter A of this chapter if such grant of authority has been altered without the consent of the issuing authority.

#### § 171.3 Hazardous waste.

(a) No person may offer for transportation or transport a hazardous waste (as defined in § 171.8 of this subchapter) in interstate or intrastate commerce except in accordance with the requirements of this subchapter.

(b) No person may accept for transportation, transport, or deliver a hazardous waste for which a manifest is required unless that person:

(1) Has marked each motor vehicle used to transport hazardous waste in accordance with § 390.21 or § 1058.2 of

this title even though placards may not be required;

(2) Complies with the requirements for manifests set forth in §172.205 of this subchapter; and

(3) Delivers, as designated on the manifest by the generator, the entire quantity of the waste received from the generator or a transporter to:

(i) The designated facility or, if not possible, to the designated alternate facility;

(ii) The designated subsequent carrier; or

(iii) A designated place outside the United States.

NOTE: Federal law specifies penalties up to \$250,000 fine for an individual and \$500,000 for a company and 5 years imprisonment for the willful discharge of hazardous waste at other than designated facilities. 49 U.S.C. 5124.

(c) If a discharge of hazardous waste or other hazardous material occurs during transportation, and an official of a State or local government or a Federal agency, acting within the scope of his official responsibilities, determines that immediate removal of the waste is necessary to prevent further consequence, that official may authorize the removal of the waste without the preparation of a manifest. [NOTE: In such cases, EPA does not require carriers to have EPA identification numbers.]

NOTE 1: EPA requires shippers (generators) and carriers (transporters) of hazardous wastes to have identification numbers which must be displayed on hazardous waste manifests. See 40 CFR parts 262 and 263. (Identification number application forms may be obtained from EPA regional offices.)

NOTE 2: In 40 CFR part 263, the EPA sets forth requirements for the cleanup of releases of hazardous wastes.

[Amdt. 171-53, 45 FR 34586, May 22, 1980, as amended by Amdt. 171-53, 45 FR 74648, Nov. 10, 1980; Amdt. 171-78, 49 FR 10510, Mar. 20, 1984; Amdt. 171-107, 54 FR 40068, Sept. 29, 1989; Amdt. 171-111, 55 FR 52466, Dec. 21, 1990; 56 FR 66157, Dec. 20, 1991; Amdt. 171-2, 59 FR 49132, Sept. 26, 1994; Amdt. 171-141, 61 FR 21102, May 9, 1996]

#### § 171.4 Marine pollutants.

(a) Except as provided in paragraph (c) of this section, no person may offer

for transportation or transport a marine pollutant, as defined in §171.8, in intrastate or interstate commerce except in accordance with the requirements of this subchapter.

(b) The requirements of this subchapter for the transportation of marine pollutants are based on the provisions of Annex III of the 1973 International Convention for Prevention of Pollution from Ships, as modified by the Protocol of 1978 (MARPOL 73/78).

(c) *Exceptions.* Except when transported aboard vessel, the requirements of this subchapter specific to marine pollutants do not apply to non-bulk packagings transported by motor vehicles, rail cars or aircraft.

[Amdt. 171-116, 57 FR 52934, Nov. 5, 1993, as amended by Amdt. 107-39, 61 FR 51337, Oct. 1, 1996]

#### § 171.6 Control numbers under the Paperwork Reduction Act.

(a) *Purpose and scope.* This section collects and displays the control numbers assigned to the HMR collections of information by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995. This section complies with the requirements of 5 CFR 1320.7(f), 1320.12, 1320.13 and 1320.14 (OMB regulations implementing the Paperwork Reduction Act of 1995) for the display of control numbers assigned by OMB to collections of information of the HMR.

(b) *OMB control numbers.* The table in paragraph (b)(2) of this section sets forth the control numbers assigned to collection of information in the HMR by the Office of Management and Budget (OMB) under the Paperwork Reduction Act of 1995.

(1) Column 1 lists the OMB control number assigned to the HMR collections of information. Column 2 contains the Report Title of the approved collection of information. Column 3 lists the part(s) or section(s) in 49 CFR identified or described in the collection of information.

(2) Table.